

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Lempert, et. Al. Analyst: Marion Mann DeJong Bill Number: AB 1784  
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 01/26/2000  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Internet Tax Freedom Act/Delete Repeal Date

### SUMMARY

This bill would remove the expiration date from the California Internet Tax Freedom Act, making the moratorium against specified Internet taxes permanent.

### EFFECTIVE DATE

This bill would become effective on January 1, 2001.

### LEGISLATIVE HISTORY

AB 1614 (Stats. 1998, Ch. 351) enacted the California Internet Tax Freedom Act, prohibiting specified Internet taxes for three years.

The following bills for 1999/2000 also deal with taxation and the Internet. AB 2188 would exempt from tax the sale of tangible property purchased over the Internet. AB 2412 would require a retailer affiliated with a retailer doing business in California to collect the sales and use tax. SB 1377 would exempt the sale of tangible property ordered over the Internet from taxation. SB 1933 would establish the California Commission on Tax Policy in the New Economy to develop a long-term strategy for revising the state and local tax structure for California. SB 1949 would require the governor to appoint a representative to work with other states to develop a multi-state sales and use tax collection and administration system.

### BACKGROUND

The federal Internet Tax Freedom Act established the Advisory Commission on Electronic Commerce to study federal, state, local, and international taxation and tariff treatment of transactions using the Internet and other comparable intrastate, interstate, and international sales activities. The 19-member commission, comprised of representatives from federal, state, and local governments and the electronic industry, is required to report its findings and recommendations to Congress. A majority of the commissioners approved policy proposals to (1) reduce the amount of tax consumers pay by repealing the 3% federal excise tax on telecommunications services; (2) permanently prohibit states or localities from taxing Internet access fees; and (3) extend the current federal moratorium on multiple and discriminatory taxes on the Internet. However, the federal commission was unable to achieve the required two-thirds support necessary for a formal recommendation.

#### Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

#### Department Director

#### Date

Gerald H. Goldberg

5/11/00

#### SPECIFIC FINDINGS

**The United States Constitution** limits state authority to levy taxes and authorizes Congress to regulate commerce between the states and with foreign nations.

**Current federal law** imposes various taxes on businesses and individuals.

**Current state and local laws** impose various state and local taxes on businesses and individuals in the state, including a state personal income tax and a state bank and corporation income and franchise tax. The Franchise Tax Board is responsible for administering these income and franchise taxes.

**Current federal law**, the "Internet Tax Freedom Act," imposes a three-year moratorium on new taxes on Internet access and on "multiple or discriminatory" taxes on electronic commerce. The moratorium will expire in October 2001.

**Current state law**, the "California Internet Tax Freedom Act" placed a three-year moratorium on local taxation of Internet access or online computer services and bit or bandwidth taxes and prohibited any discriminatory tax on Online Computer Services or Internet access. The act expressly permits the imposition of sales and use taxes, business license taxes, utility user taxes, and any other new or existing tax of general application. The moratorium will expire on January 1, 2002.

**This bill** would remove the expiration date from the Internet Tax Freedom Act, making the moratorium against specified Internet taxes permanent.

#### Implementation Considerations

This bill would not impact the programs administered by the department.

#### FISCAL IMPACT

##### Departmental Costs

This bill would not impact the department's costs.

##### Tax Revenue Estimate

This bill would not impact Personal Income Tax or Bank and Corporation Tax revenues.

#### BOARD POSITION

Pending.